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Standard Provisions for Fixed Obligation Grants to Nongovernmental Organizations

A Mandatory Reference for ADS Chapter 303

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****This document has been revised in its entirety.***

Standard Provisions for Fixed Obligation Grants to Nongovernmental Organizations

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MANDATORY STANDARD PROVISIONS FOR FIXED OBLIGATION GRANTS TO NONGOVERNMENTAL ORGANIZATIONS

***M1. SUBMISSIONS TO THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE AND DATA RIGHTS (JUNE 2012)**

a. Submissions to the Development Experience Clearinghouse (DEC).

- 1) The recipient must provide the Agreement Officer's Representative one copy of any Intellectual Work that is published, and a list of any Intellectual Work that is not published.
- 2) In addition, the recipient must submit Intellectual Work, whether published or not, to the DEC, either on-line (preferred) or by mail. The recipient must review the DEC Web site for submission instructions, including document formatting and the types of documents to submit. Submission instructions can be found at:

<https://dec.usaid.gov>

- 3) For purposes of submissions to the DEC, Intellectual Work includes all works that document the implementation, evaluation, and results of international development assistance activities developed or acquired under this award, which may include program and communications materials, evaluations and assessments, information products, research and technical reports, progress and performance reports required under this award (excluding administrative financial information), and other reports, articles and papers prepared by the recipient under the award, whether published or not. The term does not include the recipient's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information.
- 4) Each document submitted should contain essential bibliographic information, such as 1) descriptive title; 2) author(s) name; 3) award number; 4) sponsoring USAID office; 5) development objective; and 6) date of publication.
- 5) The recipient must not submit to the DEC any financially sensitive information or personally identifiable information, such as social security numbers, home addresses and dates of birth. Such information must be removed prior to submission. The recipient must not submit classified documents to the DEC.

b. Rights in Data

- 1) Data means recorded information, regardless of the form or the media on which it may be recorded, including technical data and computer software, and includes Intellectual Work, defined in a. above.
 - 2) Unless otherwise provided in this provision, the recipient may retain the rights, title and interest to Data that is first acquired or produced under this award. USAID reserves a royalty-free, worldwide, nonexclusive, and irrevocable right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.
- c. Copyright. The recipient may copyright any books, publications or other copyrightable materials first acquired or produced under this award. USAID reserves a royalty-free, worldwide, nonexclusive, and irrevocable right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.
- d. The recipient will provide the U.S. Government, on request or as otherwise provided in this award, a copy of any Data or copyrighted material to which the U.S. Government has rights under paragraphs b. and c. of this provision. The U.S. Government makes no representations or warranties as to title, right to use or license, or other legal rights or obligations regarding any Data or copyrighted materials.

[END OF PROVISION]

***M2. MARKING AND PUBLIC COMMUNICATIONS UNDER USAID-FUNDED ASSISTANCE (JUNE 2012)**

- a. The USAID Identity is the official marking for USAID, comprised of the USAID logo and brandmark with the tagline “from the American people.” The USAID Identity is on the USAID Web site at transition.usaid.gov/branding. Recipients must use the USAID Identity, of a size and prominence equivalent to or greater than any other identity or logo displayed, to mark the following:
- (1) Programs, projects, activities, public communications, and commodities partially or fully funded by USAID;
 - (2) Program, project, or activity sites funded by USAID, including visible infrastructure projects or other physical sites;
 - (3) Technical assistance, studies, reports, papers, publications, audio-visual productions, public service announcements, Web

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sites/Internet activities, promotional, informational, media, or communications products funded by USAID;

- (4) Commodities, equipment, supplies, and other materials funded by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs; and
 - (5) Events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities. If the USAID Identity cannot be displayed, the recipient is encouraged to otherwise acknowledge USAID and the support of the American people.
- b. When this award contains an approved Marking Plan, the recipient must implement the requirements of this provision following the approved Marking Plan.
 - c. If a "Marking Plan" is not included in this award, the recipient must propose and submit a plan for approval within the time specified by the Agreement Officer (AO).
 - d. The AO may require a preproduction review of program materials and "public communications" (documents and messages intended for external distribution, including but not limited to correspondence; publications; studies; reports; audio visual productions; applications; forms; press; and promotional materials) used in connection with USAID-funded programs, projects or activities, for compliance with an approved Marking Plan.
 - e. The recipient is encouraged to give public notice of the receipt of this award and announce progress and accomplishments. The recipient must provide copies of notices or announcements to Agreement Officer's Representative (AOR) and to USAID's Office of Legislative and Public Affairs in advance of release, as practicable. Press releases or other public notices must include a statement substantially as follows:

"The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide."
 - f. Any "public communication," in which the content has not been approved by USAID, must contain the following disclaimer:

"This study/report/audio/visual/other information/media product (specify) is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of

[insert recipient name] and do not necessarily reflect the views of USAID or the United States Government."

- g. The recipient must provide the USAID AOR, with two copies of all program and communications materials produced under this award.
- h. The recipient may request an exception from USAID marking requirements when USAID marking requirements would:
 - (1) Compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials;
 - (2) Diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent;
 - (3) Undercut host-country government "ownership" of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications;
 - (4) Impair the functionality of an item;
 - (5) Incur substantial costs or be impractical;
 - (6) Offend local cultural or social norms, or be considered inappropriate; or
 - (7) Conflict with international law.
- i. The recipient may submit a waiver request of the marking requirements of this provision or the Marking Plan, through the AOR, when USAID-required marking would pose compelling political, safety, or security concerns, or have an adverse impact in the cooperating country.
 - (1) Approved waivers "flow down" to subagreements, including subawards and contracts, unless specified otherwise. The waiver may also include the removal of USAID markings already affixed, if circumstances warrant.
 - (2) USAID determinations regarding waiver requests are subject to appeal by the recipient, by submitting a written request to reconsider the determination to the cognizant Assistant Administrator.

- j. The recipient must include the following marking provision in any subagreements entered into under this award:

“As a condition of receipt of this subaward, marking with the USAID Identity of a size and prominence equivalent to or greater than the recipient’s, subrecipient’s, other donor’s, or third party’s is required. In the event the recipient chooses not to require marking with its own identity or logo by the subrecipient, USAID may, at its discretion, require marking by the subrecipient with the USAID Identity.”

[END OF PROVISION]

***M3. DRUG TRAFFICKING AND DRUG-FREE WORKPLACE (JUNE 2012)**

In the event the recipient or any of its employees, subrecipients, or contractors are found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR 140, USAID reserves the right to terminate this award, in whole or in part, or take any other appropriate measures including, without limitation, refund or recall of any award amount. Additionally, the recipient must make a good-faith effort to maintain a drug-free workplace and USAID reserves the right to terminate or suspend this award if the recipient materially fails to do so.

[END OF PROVISION]

***M4. DEBARMENT AND SUSPENSION (JUNE 2012)**

- a. The recipient must not transact or conduct business under this award with any individual or entity listed on the Excluded Parties List System (www.epls.gov/) unless prior approval is received from the Agreement Officer. The list contains those individuals and entities that the U.S. Government has suspended or debarred based on misconduct or a determination by the U.S. Government that the person or entity cannot be trusted to safeguard U.S. Government funds. Suspended or debarred entities or individuals are excluded from receiving any new work or any additional U.S. Government funding for the duration of the exclusion period. If the recipient has any questions about listings in the system, these must be directed to the Agreement Officer.
- b. The recipient must comply with Subpart C of 2 CFR Section 180, as supplemented by 2 CFR 780, USAID may disallow costs, annul or terminate the transaction, debar or suspend the recipient, or take other remedies as appropriate, if the recipient violates this provision. Although doing so is not automatic, USAID may terminate this award if a recipient or any of its principals

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meet any of the conditions listed in paragraph c. below. If such a situation arises, USAID will consider the totality of circumstances—including the recipient's response to the situation and any additional information submitted—when USAID determines its response.

- c. The recipient must notify the Agreement Officer immediately upon learning that it or any of its principals, at any time prior to or during the duration of this award:
 - (1) Are presently excluded or disqualified from doing business with any U.S. Government entity;
 - (2) Have been convicted or found liable within the preceding three years for committing any offense indicating a lack of business integrity or business honesty such as fraud, embezzlement, theft, forgery, bribery or lying;
 - (3) Are presently indicted for or otherwise criminally or civilly charged by any governmental entity for any of the offenses enumerated in paragraph c.(2); or
 - (4) Have had one or more U.S.-funded agreements terminated for cause or default within the preceding three years.
- d. Principal means—
 - (1) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
 - (2) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who—
 - (i) Is in a position to handle Federal funds;
 - (ii) Is in a position to influence or control the use of those funds; or,
 - (iii) Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.
- e. The recipient must include this provision in its entirety except for paragraphs c.(2)-(4) in any subagreements, including subawards or contracts, entered into under this award.

[END OF PROVISION]

***M5. PREVENTING TERRORIST FINANCING (JUNE 2012)**

- a. The recipient must not engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism. In addition, the recipient must verify that no support or resources are provided to individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (online at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).
- b. This provision must be included in all subagreements, including contracts and subawards, issued under this award.

[END OF PROVISION]

***M6. TRAFFICKING IN PERSONS (JUNE 2012)**

- a. USAID is authorized to terminate this award, without penalty, if the recipient or its employees, or any subrecipient or its employees, engage in any of the following conduct:
 - (1) Trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime) during the period of this award;
 - (2) Procurement of a commercial sex act during the period of this award; or
 - (3) Use of forced labor in the performance of this award.
- b. For purposes of this provision, “employee” means an individual who is engaged in the performance of this award as a direct employee, consultant, or volunteer of the recipient or any subrecipient.
- c. The recipient must include in all subagreements, including subawards and contracts, a provision prohibiting the conduct described in a(1)-(3) by the subrecipient, contractor or any of their employees.

[END OF PROVISION]

M7. VOLUNTARY POPULATION PLANNING ACTIVITIES – MANDATORY REQUIREMENTS (MAY 2006)

a. Requirements for Voluntary Sterilization Programs

- (1) Funds made available under this award must not be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.

b. Prohibition on Abortion-Related Activities:

- (1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term “motivate,” as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.
- (2) No funds made available under this award will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent, or consequences of abortions is not precluded.

[END OF PROVISION]

***M8. EQUAL PARTICIPATION BY FAITH-BASED ORGANIZATIONS (JUNE 2012)**

a. Faith-Based Organizations Encouraged.

Faith-based organizations are eligible to compete on an equal basis as any other organization to participate in USAID programs. Neither USAID nor entities that make and administer subawards of USAID funds will discriminate for or against an organization on the basis of the organization's religious character or affiliation. A faith-based organization may continue to carry out its mission, including the

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definition, practice, and expression of its religious beliefs, within the limits contained in this provision. More information can be found at the USAID Faith-Based and Community Initiatives Web site:
http://transition.usaid.gov/our_work/global_partnerships/fbci/ and 22 CFR 205.1.

b. Inherently Religious Activities Prohibited.

- (1) Inherently religious activities include, among other things, worship, religious instruction, prayer, or proselytization.
- (2) The recipient must not engage in inherently religious activities as part of the programs or services directly funded with financial assistance from USAID. If the recipient engages in inherently religious activities, it must offer those services at a different time or location from any programs or services directly funded by this award, and participation by beneficiaries in any such inherently religious activities must be voluntary.
- (3) These restrictions apply equally to religious and secular organizations. All organizations that participate in USAID programs, including religious ones, must carry out eligible activities in accordance with all program requirements and other applicable requirements governing USAID-funded activities
- (4) These restrictions do not apply to USAID-funded programs where chaplains work with inmates in prisons, detention facilities, or community correction centers, or where USAID funds are provided to religious or other organizations for programs in prisons, detention facilities, or community correction centers, in which such organizations assist chaplains in carrying out their duties.
- (5) Notwithstanding the restrictions of b(1) and (2), a religious organization that participates in USAID-funded programs or services
 - (i) Retains its independence and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from USAID to support any inherently religious activities,
 - (ii) May use space in its facilities, without removing religious art, icons, scriptures, or other religious symbols, and
 - (iii) Retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

- c. Construction of Structures Used for Inherently Religious Activities Prohibited. The recipient must not use USAID funds for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities, such as sanctuaries, chapels, or other rooms that the recipient uses as its principal place of worship. Except for a structure used as its principal place of worship, where a structure is used for both eligible and inherently religious activities, USAID funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.
- d. Discrimination Based on Religion Prohibited. The recipient must not discriminate against any beneficiary or potential beneficiary on the basis of religion or religious belief as part of the programs or services directly funded with financial assistance from USAID.
- e. A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in Sec. 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e–1 is not forfeited when the organization receives financial assistance from USAID.
- f. The Secretary of State may waive the requirements of this section in whole or in part, on a case-by-case basis, where the Secretary determines that such waiver is necessary to further the national security or foreign policy interests of the United States.

[END OF PROVISION]

[END OF MANDATORY PROVISIONS]

Required As Applicable

Standard Provisions For Fixed Obligation Grants to Nongovernmental Organizations

The following Standard Provisions are required to be used when applicable. Applicability statements are contained in the parenthetical statement preceding the Standard Provision. When a Standard Provision is determined to be applicable in accordance with the applicability statement, the use of such Standard Provision is mandatory unless a deviation has been approved in accordance with ADS Chapter 303.3.4. Do not include a “required as applicable” provision in the award if the applicability statement does not require it.

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REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR FIXED OBLIGATION GRANTS TO NONGOVERNMENTAL ORGANIZATIONS

***RAA1. FIXED OBLIGATION GRANT ADVANCE PAYMENT AND REFUNDS (JUNE 2012)**

APPLICABILITY: *This provision must be incorporated into awards that authorize advance payments, which may be authorized when the recipient's accounting and financial management systems conform to the accounting principles generally accepted in the U.S., the cooperating country, or by the International Accounting Standards Board (a subsidiary of the International Financial Reporting Standards Foundation), meet the pre-award responsibility requirements in ADS Chapter 303 and when providing liquidity through milestone financing is not sufficient to meet implementation requirements. When advances are authorized, payment amounts must correspond to and be liquidated against milestones. Advance payments for any milestone may not exceed the milestone amount for which they are being made and the total amount of funds advanced may not exceed the total award amount. When this provision is used, the Schedule at C.2. must be modified to reference this provision as the payment provision.*

FIXED OBLIGATION GRANT ADVANCE PAYMENT AND REFUNDS (JUNE 2012)

- a. The recipient is not required to maintain separate bank accounts for USAID funds, unless otherwise required. However, when advances are authorized by this award, the recipient must deposit such funds in a reputable bank and be able to account for the receipt and expenditure of funds and interest earned on the advances provided by the U.S. Government (USG).
- b. The recipient must maintain advances of USAID funds in interest-bearing accounts, unless:
 - (1) The recipient receives less than \$120,000 in USG awards per year;
 - (2) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$250 in a twelve month period on USG cash balances; or
 - (3) The bank would require an average or minimum balance so high that it would not be practical to maintain the advance in an interest-bearing account.
- c. The recipient may retain up to \$250 of interest earned in a twelve-month period on USG cash balances for administrative expenses. Any additional interest

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earned on advances must be remitted to the USAID payment office specified in this award, or such other location as the payment office advises.

- d. The recipient must request advance payments for anticipated expenditures at time intervals as close as is administratively feasible to the actual disbursements by the recipient, and for the minimum amounts necessary for particular milestones.
- e. To request an advance payment, the recipient must submit (preferably electronically) to the payment office the *Standard Form 1034 (SF-1034) "Public Voucher for Purchases and Services Other Than Personal"* ([http://contacts.gsa.gov/webforms.nsf/0/57675C8BB6CE880B85256A3F004125BD/\\$file/SF1034.pdf](http://contacts.gsa.gov/webforms.nsf/0/57675C8BB6CE880B85256A3F004125BD/$file/SF1034.pdf)). The recipient must print the statement "Request for Advance" at the top of the form.
- f. The recipient may submit requests for advances to the paying office specified in this award as often as may be necessary to meet projected expenses. Each request must specifically identify the milestone(s) to which the advance applies. In no event may the recipient request or receive an advance greater than the amount of the milestone for which the advance is requested.
- g. Advance payments must be liquidated against milestones and their amounts. This will occur when milestones are met and accepted by USAID. The recipient must refund to USAID any advance amounts above the milestone amount for which the advance was received.
- h. When this award expires, the recipient must immediately return all funds that USAID has advanced to the recipient in excess of any completed milestones. USAID reserves the right, at any time, to 1) withhold or offset payments to or 2) require refund by, the recipient of any amount the recipient received for milestones that are not, or cannot feasibly be, completed.
- i. Cash advances made by the recipient to subrecipients or the recipient's field organizations must conform substantially to paragraphs a., b., c., d. and h. of this provision. In the case of paragraph c., any interest over \$250 per account, per year must be remitted through the prime recipient.

[END OF PROVISION]

RAA2. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER (OCTOBER 2010)

APPLICABILITY: *This provision is required in accordance with 2 CFR 25, Award Term for Central Contractor Registration and Universal Identifier. Agreement Officers (AOs) must include this provision in all assistance solicitations and all awards, unless the AO*

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exempts an organization from compliance with the provision under one of the following exceptions, from paragraph d. below:

Exceptions. *The requirements of this provision to obtain a Data Universal Numbering System (DUNS) number and maintain a current registration in the Central Contractor Registration (CCR) do not apply, at the prime award or subaward level, to:*

(1) Awards to individuals

(2) Awards less than \$25,000 to foreign recipients to be performed outside the United States (based on a USAID determination)

(3) Awards where the AO determines, in writing, that these requirements would cause personal safety concerns.

CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER (OCTOBER 2010)

- a. Requirement for Central Contractor Registration (CCR).** Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently, if required by changes in your information or another award term.
- b. Requirement for Data Universal Numbering System (DUNS) numbers.** If you are authorized to make subawards under this award, you:
 - (1) Must notify potential subrecipients that no entity (see definition in paragraph c. of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
 - (2) May not make a subaward to an entity unless the entity has provided its DUNS number to you.
- c. Definitions.** For purposes of this award term:
 - (1) Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at www.ccr.gov/).
 - (2) Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained

from D&B by telephone (currently 866-705-5711) or the Internet (currently at fedgov.dnb.com/webform).

- (3) Entity, as it is used in this award term, means all of the following, as defined at 2 CFR 25, subpart C:
 - (i) A governmental organization, which is a State, local government, or Indian tribe;
 - (ii) A foreign public entity;
 - (iii) A domestic or foreign nonprofit organization;
 - (iv) A domestic or foreign for-profit organization; and
 - (v) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- (4) Subaward:
 - (i) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you, as the recipient, award to an eligible subrecipient.
 - (ii) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - (iii) A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
- (5) Subrecipient means an entity that:
 - (i) Receives a subaward from you under this award; and
 - (ii) Is accountable to you for the use of the Federal funds provided by the subaward.

ADDENDUM (JUNE 2012):

- d. **Exceptions.** The requirements of this provision to obtain a Data Universal Numbering System (DUNS) number and maintain a current registration in the Central Contractor Registration (CCR) do not apply, at the prime award or subaward level, to:
 - (1) Awards to individuals
 - (2) Awards less than \$25,000 to foreign recipients to be performed outside the United States (based on a USAID determination)
 - (3) Awards where the Agreement Officer determines, in writing, that these requirements would cause personal safety concerns.

- e. This provision does not need to be included in subawards.

[END OF PROVISION]

RAA3. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (OCTOBER 2010)

APPLICABILITY: *This provision is required in accordance with 2 CFR 170, Award Term for Reporting Subawards and Executive Compensation. AOs must include this provision in all assistance solicitations and all awards expected to exceed \$25,000, unless an exemption applies under paragraph d. of the provision or the exemptions listed below in this applicability statement. If the AO determines that an exemption applies, the AO must provide guidance to the recipient on reporting with generic information.*

Exemptions.

- (1) *The requirements to report under this provision do not apply to:*
 - (i) *Awards to individuals*
 - (ii) *Awards less than \$25,000*
- (2) *When the AO determines, in writing, that these requirements would cause personal safety concerns, reporting under this provision can be accomplished using generic information.*

REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (OCTOBER 2010)

a. Reporting of First-Tier Subawards.

- (1) **Applicability.** Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).
- (2) **Where and when to report.**
 - (i) You must report each obligating action described in paragraph a.(1) of this award term to www.fsrs.gov.
 - (ii) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For

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example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

- (3) What to report. You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.

b. Reporting Total Compensation of Recipient Executives.

- (1) Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –
 - (i) The total Federal funding authorized to date under this award is \$25,000 or more;
 - (ii) In the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at www.sec.gov/answers/execomp.htm.)
- (2) Where and when to report. You must report executive total compensation described in paragraph b.(1) of this award term:
 - (i) As part of your registration profile at www.ccr.gov/.
 - (ii) By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

- (1) Applicability and what to report. Unless you are exempt, as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you must report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if –
 - (i) In the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at www.sec.gov/answers/execomp.htm.)
- (2) Where and when to report. You must report subrecipient executive total compensation described in paragraph c.(1) of this award term:
 - (i) To the recipient.
 - (ii) By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (for example, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions.

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- (1) Subawards, and

- (2) The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions.

For purposes of this award term:

- (1) Entity means all of the following, as defined in 2 CFR 25:
 - (i) A governmental organization, which is a State, local government, or Indian tribe;
 - (ii) A foreign public entity;
 - (iii) A domestic or foreign nonprofit organization;
 - (iv) A domestic or foreign for-profit organization;
 - (v) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- (2) Executive means officers, managing partners, or any other employees in management positions.
- (3) Subaward:
 - (i) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - (ii) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - (iii) A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- (4) Subrecipient means an entity that:
 - (i) Receives a subaward from you (the recipient) under this award; and

- (ii) Is accountable to you for the use of the Federal funds provided by the subaward.
- (5) Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - (i) Salary and bonus.
 - (ii) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - (iii) Earnings for services under nonequity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - (iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - (v) Above-market earnings on deferred compensation which is not tax-qualified.
 - (vi) Other compensation, if the aggregate value of all such other compensation (for example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

[END OF PROVISION]

***RAA4. USAID ELIGIBILITY RULES FOR PROCUREMENT OF COMMODITIES AND SERVICES (JUNE 2012)**

This provision is only applicable when specific goods or services are listed as or in milestones.

a. Ineligible and Restricted Commodities and Services:

- (1) Ineligible Commodities and Services. The recipient must not, under any circumstances, procure any of the following under this award:

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- (i) Military equipment,
 - (ii) Surveillance equipment,
 - (iii) Commodities and services for support of police or other law enforcement activities,
 - (iv) Abortion equipment and services,
 - (v) Luxury goods and gambling equipment, or
 - (vi) Weather modification equipment.
- (2) Ineligible Suppliers. Any firms or individuals that do not comply with the requirements in Standard Provision, “Debarment and Suspension” and Standard Provision, “Preventing Terrorist Financing” must not be used to provide any commodities or services funded under this award.
- (3) Restricted Commodities. The recipient must obtain prior written approval of the Agreement Officer (AO) or comply with required procedures under an applicable waiver, as provided by the AO when procuring any of the following commodities:
- (i) Agricultural commodities,
 - (ii) Motor vehicles,
 - (iii) Pharmaceuticals,
 - (iv) Pesticides,
 - (v) Used equipment,
 - (vi) U.S. Government-owned excess property, or
 - (vii) Fertilizer.

b. Source and Nationality:

Except as may be specifically approved in advance by the AO, all commodities and services that will be reimbursed by USAID under this award must be from the authorized geographic code specified in this award and must meet the source and nationality requirements set forth in 22 CFR 228. If the geographic code is not specified, the authorized geographic code is 937. When the total value of procurement for commodities and services during the life of this award is valued at \$250,000 or less, the authorized geographic code for procurement of all goods and services to be reimbursed under this award is code 935. For a current list of countries within each geographic code, see:

<http://www.usaid.gov/policy/ads/300/310.pdf>.

- c. Guidance on the eligibility of specific commodities and services may be obtained from the AO. If USAID determines that the recipient has procured any commodities or services under this award contrary to the requirements of this provision, and has received payment for such purposes, the AO may require the recipient to refund the entire amount of the purchase.

- d. This provision must be included in all subagreements, including subawards and contracts, which include procurement of the commodities or services specifically listed as or in milestones.

[END OF PROVISION]

RAA5. FLY AMERICA ACT RESTRICTIONS (JUNE 2012)

APPLICABILITY: *This provision is only applicable when international travel is listed as or in a milestone.*

FLY AMERICA ACT RESTRICTIONS (JUNE 2012)

- a. The recipient must use U.S. Flag Air Carriers for all international air transportation (including personal effects) funded by this award pursuant to the Fly America Act and its implementing regulations to the extent service by such carriers is available.
- b. In the event that the recipient selects a carrier other than a U.S. Flag Air Carrier for international air transportation, in order for the costs of such international air transportation to be allowable, the recipient must document such transportation in accordance with this provision and maintain such documentation pursuant to the Standard Provision, "Accounting, Audit and Records." The documentation must use one of the following reasons or other exception under the Fly America Act:
 - (1) The recipient uses a European Union (EU) flag air carrier, which is an airline operating from an EU country that has signed the US-EU "Open Skies" agreement (<http://www.state.gov/e/eb/rls/othr/ata/i/ic/170684.htm>).
 - (2) Travel to or from one of the following countries on an airline of that country when no city pair fare is in effect for that leg (see <http://apps.fas.gsa.gov/citypairs/search/>):
 - a. Australia on an Australian airline,
 - b. Switzerland on a Swiss airline, or
 - c. Japan on a Japanese airline;
 - (3) Only for a particular leg of a route on which no US Flag Air Carrier provides service on that route;

- (4) For a trip of 3 hours or less, the use of a US Flag Air Carrier at least doubles the travel time;
- (5) If the US Flag Air Carrier offers direct service, use of the US Flag Air Carrier would increase the travel time by more than 24 hours; or
- (6) If the US Flag Air Carrier does not offer direct service,
 - a. Use of the US Flag Air Carrier increases the number of aircraft changes by 2 or more,
 - b. Use of the US Flag Air Carrier extends travel time by 6 hours or more, or
 - c. Use of the US Flag Air Carrier requires a layover at an overseas interchange of 4 hours or more.

c. DEFINITIONS

The terms used in this provision have the following meanings:

- (1) "International air transportation" means international air travel by individuals (and their personal effects) or transportation of cargo by air between a place in the United States and a place outside thereof, or between two places both of which are outside the United States.
- (2) "U.S. Flag Air Carrier" means an air carrier on the list issued by the U.S. Department of Transportation at <http://ostpxweb.dot.gov/aviation/certific/certlist.htm>. U.S. Flag Air Carrier service also includes service provided under a code share agreement with another air carrier when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number.
- (3) For this provision, the term "United States" includes the fifty states, Commonwealth of Puerto Rico, possessions of the United States, and the District of Columbia.

d. SUBAGREEMENTS

This provision must be included in all subagreements, including all subawards and contracts, under which this award will finance international air transportation.

[END OF PROVISION]

***RAA6. OCEAN SHIPMENT OF GOODS (JUNE 2012)**

APPLICABILITY: *This provision is only applicable for awards in which the recipient contracts for ocean transportation for goods purchased or financed with USAID funds and such goods are listed in or as milestones. In accordance with 22 CFR 228.21, ocean transportation shipments are subject to the provisions of 46 CFR Part 381.*

OCEAN SHIPMENT OF GOODS (JUNE 2012)

- a. Prior to contracting for ocean transportation to ship goods purchased or financed with USAID funds under this award, the recipient must contact the office below to determine the flag and class of vessel to be used for shipment:

U.S. Agency for International Development,
Office of Acquisition and Assistance, Transportation Division
1300 Pennsylvania Avenue, NW
Washington, DC 20523-7900
Email: oceantransportation@usaid.gov

- b. This provision must be included in all subagreements, including subwards and contracts.

[END OF PROVISION]

***RAA7. REPORTING HOST GOVERNMENT TAXES (JUNE 2012)**

APPLICABILITY: *This provision is only applicable if a host country tax may possibly be charged on items specifically listed as or in milestones in agreements that obligate or subobligate FY 2003 or later funds except for agreements funded with Operating Expense, Pub. L. 480 funds, or trust funds, or agreements where there will be no commodity transactions in a foreign country over the amount of \$500.*

REPORTING HOST GOVERNMENT TAXES (JUNE 2012)

- a. By April 16 of each year, the recipient must submit a report containing:
- (i) Contractor/recipient name.
 - (ii) Contact name with phone, fax and e-mail.
 - (iii) Agreement number(s).
 - (iv) The total amount of value-added taxes and customs duties (but not sales taxes) assessed by the host government (or any entity thereof) on purchases in excess of \$500 per transaction of supplies, materials, goods or equipment, during the 12 months ending on the preceding September

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30, using funds provided under this contract/agreement.

- (v) Any reimbursements received by April 1 of the current year on value-added taxes and customs duties reported in (iv).
 - (vi) Reports are required even if the recipient did not pay any taxes or receive any reimbursements during the reporting period.
 - (vii) Cumulative reports may be provided if the recipient is implementing more than one program in a foreign country.
- b. Submit the reports to: [insert address and point of contact at the Embassy, Mission, or CFO/CMP as appropriate, may include an optional "with a copy to"].
 - c. Host government taxes are not allowable where the Agreement Officer provides the necessary means to the recipient to obtain an exemption or refund of such taxes, and the recipient fails to take reasonable steps to obtain such exemption or refund. Otherwise, taxes are allowable in accordance with the Standard Provision, "Allowable Costs," and must be reported as required in this provision.
 - d. The recipient must include this reporting requirement in all applicable subagreements, including subawards and contracts.

[END OF PROVISION]

***RAA8. PATENT RIGHTS (JUNE 2012)**

APPLICABILITY: This provision is applicable to awards to small business firms or nonprofit organizations for the performance of experimental, developmental, or research work funded in whole or in part with USAID funds.

PATENT RIGHTS (JUNE 2012)

- a. Patent Rights
 - (1) Allocation of Principal Patent Rights. The recipient may retain the entire right, title, and interest throughout the world to each subject invention, subject to this provision. With respect to any subject invention in which the recipient retains title, the U.S. Government must have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the U.S. Government the subject invention throughout the world, and to sublicense others to do the same. The recipient agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a subject invention, the following statement: "This invention was made with U.S. Government support

under (identify the agreement awarded by USAID). The U.S. Government has certain rights in this invention."

- (2) Definitions. For purposes of this provision, the following terms shall have the following meaning:
 - (i) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.
 - (ii) "Subject invention" means any invention of the recipient conceived or first actually reduced to practice in the performance of work under this award.
 - (3) The recipient must disclose each subject invention to the National Institutes of Health (NIH) EDISON Patent Reporting and Tracking System (<http://www.iedison.gov>) within two months after the inventor discloses it in writing to recipient personnel responsible for patent matters. In addition, the recipient agrees to submit, on request, periodic reports to the Agreement Officer's Representative, no more frequently than annually, on the utilization of a subject invention.
 - (4) Conditions When the U.S. Government May Obtain Title. The recipient must convey title to any subject invention to USAID, upon written request, subject to recipient's retention of a nonexclusive, royalty-free license throughout the world, in each subject invention:
 - (i) If the recipient fails to file a U.S. patent application or to disclose the subject invention to USAID at least 60 days prior to the statutory period for filing a patent in the United States, fails to file any non-U.S. patent applications within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications, or elects not to retain title.
 - (ii) In any country in which the recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on a patent on a subject invention.
- b. Subawards and Contracts: Recipient must include this the Standard Provision, suitably modified to identify the parties, in all subawards and contracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or nonprofit organization. The recipient must retain all rights provided for the USG in this the Standard Provision, and the

recipient must not, as part of the consideration for awarding the contract or subaward, obtain more rights in the contractor's or subrecipient's subject inventions than provided in this provision.

[END OF PROVISION]

***RAA9. EXCHANGE VISITORS AND PARTICIPANT TRAINING (JUNE 2012)**

APPLICABILITY:

This provision applies to awards that contain funding for any exchange visitor activities or participant training, as defined in [ADS 252](#) and [253](#), respectively, conducted or paid for by the recipient with USAID funds under this award.

EXCHANGE VISITORS AND PARTICIPANT TRAINING (JUNE 2012)

For any Exchange Visitor, Participant Training or Invitational Travel activities, the recipient must comply with this provision.

a. Definitions:

- (1) An **Exchange Visitor** is any host-country or third-country national traveling to the U.S., for any purpose, including Participant Training and Invitational Travel, funded by USAID in whole or in part, directly or indirectly.
- (2) A **Participant** is a host-country or third-country national sponsored by USAID for a Participant Training activity taking place in the U.S., a third country, or in the host country.
- (3) **Participant Training** is a learning activity conducted within the U.S., a third country, or in the host country for the purpose of furthering USAID development objectives. A learning activity takes place in a setting in which an individual (the Participant) interacts with a knowledgeable professional, predominantly for the purpose of acquiring knowledge or skills for the professional or technical enhancement of the individual. Learning activities may be formally structured, such as an academic program or a technical course, or they may be more informal, such as an observational study tour.
- (4) **Invitational Travel** is a type of travel that USAID funds for non-U.S. Government employees. This type of travel may be approved for both U.S. and foreign citizens who are not employed by the U.S. Government (USG), not receiving any type of compensation from the USG for such

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travel, and only when it is determined that the functions to be performed are essential to the interests of USAID.

- b. **Program Monitoring and Data Reporting:** The recipient must monitor Exchange Visitors' and Participants' progress during their program and ensure that problems are identified and resolved quickly.
 - (1) For U.S.-based activities, the recipient must use USAID's official Exchange Visitor and Participant Training information system, currently called "Training Results and Information Network – TraiNet" (see <http://trainethelp.usaid.gov/>), to report and manage Exchange Visitor and Participant Training data. The recipient must also use the USAID Visa Compliance System – VCS (see <http://trainethelp.usaid.gov/>) to transfer required data for USAID Exchange Visitors to the Department of Homeland Security's Student and Exchange Visitor Information System (SEVIS).
 - (2) For all third-country activities, and for host-country activities of two consecutive days or 16 contact hours or more in duration, the recipient must use USAID's official Exchange Visitor and Participant Training information system, currently called "Training Results and Information Network – TraiNet" (see <http://trainethelp.usaid.gov/>), to report and manage Participant Training data.
- c. **Health and Accident Insurance:**
 - (1) For Exchange Visitors traveling to the United States, the recipient must enroll Exchange Visitors in health and accident insurance coverage that meets or exceeds Department of State and USAID minimum coverage requirements as set forth in 22 CFR 62.14 and ADS 253.3.6.2. The requirements may be obtained from the Agreement Officer's Representative.
 - (2) For Participants traveling to a third country, the recipient must obtain health and accident insurance coverage for all Participants.
 - (3) For Participants traveling within the host country, the recipient must determine whether specific in-country participant training activities subject them to any risk of health and accident liability for medical costs. Participants may incur, and if so, take appropriate steps according to the local situation, including obtaining health and accident insurance coverage for Participants.
- d. **Immigration Requirements:**

- (1) For Exchange Visitors traveling to the United States, the recipient must ensure that all USAID-sponsored Exchange Visitors obtain, use, and comply with the terms of the J-1 visa, issued in conjunction with a USAID-issued Certificate of Eligibility for J-1 Visa Status (DS-2019).
 - (2) For Participants traveling to a third country or within the host country, the recipient must ensure that all Participants obtain, use, and comply with the terms of all applicable immigration, visa and other similar requirements.
- e. **Language Proficiency:** The recipient must verify language proficiency. Exchange Visitors must possess sufficient English language proficiency to participate in a U.S.-based activity. Participants of third-country or host-country training must be proficient in the language of training at a sufficient level for participation, unless an interpreter has been arranged. Language competency can be verified through a variety of means including proficiency assessments of interviews, publications, presentations, education conducted in English, and formal testing.
 - f. **Pre-departure Orientation:** The recipient must conduct pre-departure orientation for U.S.-bound Exchange Visitors and Participants of third-country training programs. Pre-departure orientation covers: program objectives; administrative and policy review; cultural aspects; and training/learning methods (see http://pdf.usaid.gov/pdf_docs/PNADT444.pdf).
 - g. **Conditions of Sponsorship:** The recipient must ensure that all Exchange Visitors read and sign the Conditions of Sponsorship for U.S.-Based Activities form (AID 1381-6). The recipient must also ensure that all Participants of long-term (six months or longer) third-country training read and sign the form Conditions of Sponsorship for Third-Country Training form (AID 1381-7). The recipient must report to the Agreement Officer any known violations by Exchange Visitors of visa or other immigration requirements or conditions.
 - h. **Exchange Visitor Security Risk and Fraud Inquiry:** Each USAID Mission has an established process for conducting a Security Risk and Fraud Inquiry (SRFI) for Exchange Visitors. The recipient must be prepared to assist Missions in conducting the SRFI, if requested. However, the recipient's role is contributive, and the Mission is ultimately responsible for conducting the SRFI.
 - i. **Fly America:** To the extent that participants travel by international air travel, the recipient must comply with the Standard Provision, "International Air Travel and Air Transportation of Property."
 - j. **Use of Minority Serving Institutions:** For U.S.-based Participant Training, the recipient must, to the maximum extent possible, maintain their use of Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions (MSIs), including Hispanic Serving Institutions and Tribal Colleges and

Universities, as training or education providers.

[END OF PROVISION]

RAA10. INVESTMENT PROMOTION (NOVEMBER 2003)

APPLICABILITY: *The following provision is when gray-area activities or investment-related activities are specifically listed as or in milestones. When applicable, see [ADS 225](#) (see 225.3.) for more information.*

INVESTMENT PROMOTION (NOVEMBER 2003)

- a. Except as specifically set forth in this award or otherwise authorized by USAID in writing, no funds or other support provided hereunder may be used for any activity that involves investment promotion in a foreign country.
- b. In the event the recipient is requested or wishes to provide assistance in the above area or requires clarification from USAID as to whether the activity would be consistent with the limitation set forth above, the recipient must notify the Agreement Officer and provide a detailed description of the proposed activity. The recipient must not proceed with the activity until advised by USAID that it may do so.
- c. The recipient must ensure that its employees and subrecipients and contractors providing investment promotion services hereunder are made aware of the restrictions set forth in this clause and must include this clause in all contracts and other subagreements entered into hereunder.

[END OF PROVISION]

***RAA11. PROTECTION OF HUMAN RESEARCH SUBJECTS (JUNE 2012)**

APPLICABILITY: *This provision is applicable when human subjects are involved in research financed by this award, as defined in 22 CFR 225 and ADS 200 Mandatory Reference, "Protection of Human Subjects in Research Supported by USAID." The AO should confer with the Activity Manager to determine if any research with human subjects will be included in the award.*

PROTECTION OF HUMAN RESEARCH SUBJECTS (JUNE 2012)

- a. The recipient is responsible for safeguarding the rights and welfare of human subjects involved in research under this award, and must comply with the

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Common Federal Policy for the Protection of Human Subjects as found in Part 225 of Title 22 of the Code of Federal Regulations (22 CFR 225).

- b. The recipient must assure USAID of its compliance with the requirements set forth in 22 CFR 225 by doing one of the following:
 - (1) Obtaining a Federal-Wide Assurance (FWA) from the U.S. Department of Health and Human Services. Instructions on obtaining an FWA can be found on the Office of Human Research Protection Web site <http://www.hhs.gov/ohrp/assurances/assurances/file/index.html>; or
 - (2) Submitting to the Agreement Officer's Representative (AOR) for USAID approval, a written assurance which includes a statement of principles governing the recipient's responsibilities, designation of one or more Institutional Review Board (IRB), a list of the IRB members, written procedures which the IRB will follow, and written procedures for ensuring prompt reporting of unanticipated problems to the IRB; or
 - (3) Submitting to the AOR for USAID approval, a justification memorandum asserting that research conducted outside the United States provides protections at least equivalent to those in 22 CFR 225.
- c. Definitions for the purposes of this award:
 - (1) Research means an activity designed to test a hypothesis, permit conclusions to be drawn, and thereby to develop or to contribute to generalizable knowledge.
 - (2) Human subject means a living individual about whom an investigator (whether professional or student) conducting research obtains
 - (i) Data through intervention or interaction with the individual, or
 - (ii) Identifiable private information.
 - (3) Intervention includes both physical procedures by which data are gathered and the changes to the subject or the subject's environment performed for research purposes.
 - (4) Institutional Review Board means a properly constituted ethical committee which will review the research.
- d. USAID staff and consultants may independently review and inspect research and research processes and procedures involving human subjects, and based on such findings, USAID may prohibit research which presents unacceptable hazards or otherwise fails to comply with USAID procedures. Informed consent

documents must include the following statement:

"Subject's research records may be independently reviewed by USAID staff and consultants to ensure compliance with USAID requirements for protection of human research subjects."

[END OF PROVISION]

***RAA12. STATEMENT FOR IMPLEMENTERS OF ANTI-TRAFFICKING ACTIVITIES ON LACK OF SUPPORT FOR PROSTITUTION (JUNE 2012)**

Applicability: *This provision must be included in any award that*

- (1) uses funds made available to carry out Division A of the Trafficking Victims Protection Act of 2000, P.L. 106-386; and*
- (2) covers a program that targets victims of severe forms of trafficking in persons (as defined below) and provides services to individuals while they are still engaged in activities that resulted from such victims being trafficked.*

"Severe forms of trafficking in persons" means

- (1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or*
- (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.*

STATEMENT FOR IMPLEMENTERS OF ANTI-TRAFFICKING ACTIVITIES ON LACK OF SUPPORT FOR PROSTITUTION (MAY 2012)

By accepting this award, the recipient hereby states that it does not promote, support, or advocate the legalization or practice of prostitution. This statement may be true by virtue of the organization's lack of any policy regarding the issue.

[END OF PROVISION]

***RAA13. ELIGIBILITY OF SUBRECIPIENTS OF ANTI-TRAFFICKING FUNDS (JUNE 2012)**

APPLICABILITY: *This provision must be included in any award that uses funds made available to carry out the Trafficking Victims Protection Act of 2000, Division A of P.L. 106-386, for a program that targets victims of severe forms of trafficking in persons. “Severe forms of trafficking in persons” means*

- (1) *sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or*
- (2) *the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.*

ELIGIBILITY OF SUBRECIPIENTS OF ANTI-TRAFFICKING FUNDS (JUNE 2012)

The recipient must not provide funds made available to carry out this award to any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the legalization or practice of prostitution. Such a statement is not required, however, if the sub-recipient organization provides services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked. If required, the sub-recipient organization’s statement may be true by virtue of the organization’s lack of any policy regarding the issue.

[END OF PROVISION]

RAA14. PROHIBITION ON THE USE OF ANTI-TRAFFICKING FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION (JUNE 2012)

APPLICABILITY: *This provision must be included in any award that uses funds made available specifically under the Trafficking Victims Protection Act of 2000, Division A of P.L. 106-386.*

PROHIBITION ON THE USE OF ANTI-TRAFFICKING FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION (JUNE 2012)

None of the funds made available under this award may be used to promote, support, or advocate the legalization or practice of prostitution. However, this prohibition does not preclude assistance designed to ameliorate the suffering of, or health risks to, victims

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while they are being trafficked or after they are out of the situation that resulted in such victims being trafficked. The recipient must insert this provision in all subagreements under this award.

[END OF PROVISION]

RAA15. VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)

APPLICABILITY: This provision is applicable to all awards involving any aspect of voluntary population planning activities.

VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)

a. Voluntary Participation and Family Planning Methods:

- (1) The recipient agrees to take any steps necessary to ensure that funds made available under this award will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the recipient agrees to conduct its activities in a manner which safeguards the rights, health, and welfare of all individuals who take part in the program.
- (2) Activities which provide family planning services or information to individuals, financed, in whole or in part, under this award, must provide a broad range of family planning methods and services available in the country in which the activity is conducted or must provide information to such individuals regarding where such methods and services may be obtained.

b. Requirements for Voluntary Family Planning Projects

- (1) A family planning project must comply with the requirements of this paragraph.
- (2) A project is a discrete activity through which a governmental or nongovernmental organization or Public International Organization (PIO) provides family planning services to people and for which funds obligated under this award, or goods or services financed with such funds, are provided under this award, except funds solely for the participation of personnel in short-term, widely attended training conferences or programs.

- (3) Service providers and referral agents in the project must not implement or be subject to quotas or other numerical targets of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning. Quantitative estimates or indicators of the number of births, acceptors, and acceptors of a particular method that are used for the purpose of budgeting, planning, or reporting with respect to the project are not quotas or targets under this paragraph, unless service providers or referral agents in the project are required to achieve the estimates or indicators.
- (4) The project must not include the payment of incentives, bribes, gratuities or financial rewards to (i) any individual in exchange for becoming a family planning acceptor, or (ii) any personnel performing functions under the project for achieving a numerical quota or target of total number of births, number of family planning acceptors, or acceptors of a particular method of contraception. This restriction applies to salaries or payments paid or made to personnel performing functions under the project if the amount of the salary or payment increases or decreases based on a predetermined number of births, number of family planning acceptors, or number of acceptors of a particular method of contraception that the personnel affect or achieve.
- (5) A person must not be denied any right or benefit, including the right of access to participate in any program of general welfare or health care, based on the person's decision not to accept family planning services offered by the project.
- (6) The project must provide family planning acceptors comprehensible information about the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method. This requirement may be satisfied by providing information in accordance with the medical practices and standards and health conditions in the country where the project is conducted through counseling, brochures, posters, or package inserts.
- (7) The project must ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits.
- (8) With respect to projects for which USAID provides, or finances the contribution of, contraceptive commodities or technical services and for which there is no subaward or contract under this award, the organization implementing a project for which such assistance is provided must agree that the project will comply with the requirements of this paragraph while

using such commodities or receiving such services.

- (9)
 - i) The recipient must notify USAID when it learns about an alleged violation in a project of the requirements of subparagraphs b.(3), b.(4), b.(5), or b.(7).
 - ii) The recipient must investigate and take appropriate corrective action, if necessary, when it learns about an alleged violation in a project of subparagraph b.(6) and must notify USAID about violations in a project affecting a number of people over a period of time that indicate there is a systemic problem in the project.
 - iii) The recipient must provide USAID such additional information about violations as USAID may request.

c. Additional Requirements for Voluntary Sterilization Programs

- (1) Funds made available under this award must not be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.
- (2) The recipient must ensure that any surgical sterilization procedures supported, in whole or in part, by funds from this award are performed only after the individual has voluntarily appeared at the treatment facility and has given informed consent to the sterilization procedure. Informed consent means the voluntary, knowing assent from the individual after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the option to withdraw consent any time prior to the operation. An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation.
- (3) Further, the recipient must document the patient's informed consent by (i) a written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or (ii) when a patient is unable to read adequately a written certification by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the

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performance of the operation. The receipt of this oral explanation must be acknowledged by the patient's mark on the certification and by the signature or mark of a witness who speaks the same language as the patient.

- (4) The recipient must retain copies of informed consent forms and certification documents for each voluntary sterilization for a period of three years after performance of the sterilization procedure.

d. Prohibition on Abortion-Related Activities:

- (1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term "motivate," as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.
- (2) No funds made available under this award will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

- e. The recipient must insert this provision in all subsequent subagreements, including subawards and contracts, involving family planning or population activities that will be supported, in whole or in part, from funds under this award.

[END OF PROVISION]

**RAA16. CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE)
(FEBRUARY 2012)**

APPLICABILITY: *This provision must be included in any award anticipated to use FY04-FY13 funds available for HIV/AIDS activities.*

CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE) (FEBRUARY 2012)

An organization, including a faith-based organization, that is otherwise eligible to

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receive funds under this agreement for HIV/AIDS prevention, treatment, or care—

- a. Must not be required, as a condition of receiving such assistance—
 - (1) to endorse or utilize a multisectoral or comprehensive approach to combating HIV/AIDS; or
 - (2) to endorse, utilize, make a referral to, become integrated with, or otherwise participate in any program or activity to which the organization has a religious or moral objection; and
- b. Must not be discriminated against in the solicitation or issuance of grants, contracts, or cooperative agreements for refusing to meet any requirement described in paragraph (a)(1) above.

[END OF PROVISION]

RAA17. CONDOMS (JUNE 2005)

APPLICABILITY: *This provision must be included in any agreement financing HIV/AIDS activities.*

CONDOMS (JUNE 2005)

Information provided about the use of condoms as part of projects or activities that are funded under this agreement must be medically accurate and must include the public health benefits and failure rates of such use and must be consistent with USAID's fact sheet entitled, "USAID: HIV/STI Prevention and Condoms." This fact sheet may be accessed at:

transition.usaid.gov/our_work/global_health/aids/TechAreas/prevention/condomfactsheet.html

[END OF PROVISION]

RAA18. PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING (APRIL 2010)

APPLICABILITY: *This provision must be included in any agreement financing HIV/AIDS activities. For awards to Alliance for Open Society International (AOSI), Pathfinder, or a member of the Global Health Council (GHC) or InterAction (with the exception of DKT International, Inc.), the Agreement Officer must include the following footnote at the end of paragraph (b)(1):*

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“Any enforcement of this clause is subject to Alliance for Open Society International v. USAID, 05 Civ. 8209 (S.D.N.Y., orders filed on June 29, 2006 and August 8, 2008) (orders granting preliminary injunction) for the term of the Orders.”

The lists of members of GHC and InterAction can be found at:

http://transition.usaid.gov/business/business_opportunities/cib/pdf/GlobalHealthMemberlist.pdf.

PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING (APRIL 2010)

- a. The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this agreement may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.
- b.
 - (1) Except as provided in (b)(2) and (b)(3), by accepting this award or any subaward, a non-governmental organization or public international organization awardee/subawardee agrees that it is opposed to the practices of prostitution and sex trafficking because of the psychological and physical risks they pose for women, men, and children.
 - (2) The following organizations are exempt from (b)(1): the Global Fund to Fight AIDS, Tuberculosis and Malaria; the World Health Organization; the International AIDS Vaccine Initiative; and any United Nations agency.
 - (3) Contractors and subcontractors are exempt from (b)(1) if the contract or subcontract is for commercial items and services as defined in FAR 2.101, such as pharmaceuticals, medical supplies, logistics support, data management, and freight forwarding.
 - (4) Notwithstanding section (b)(3), not exempt from (b)(1) are recipients, subrecipients, contractors, and subcontractors that implement HIV/AIDS programs under this assistance award, any subaward, or procurement contract or subcontract by:
 - (i) Providing supplies or services directly to the final populations receiving such supplies or services in host countries;
 - (ii) Providing technical assistance and training directly to host country individuals or entities on the provision of supplies or services to the final populations receiving such supplies and services; or

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- (iii) Providing the types of services listed in FAR 37.203(b)(1)-(6) that involve giving advice about substantive policies of a recipient, giving advice regarding the activities referenced in (i) and (ii), or making decisions or functioning in a recipient's chain of command (e.g., providing managerial or supervisory services approving financial transactions, personnel actions).
- c. The following definitions apply for purposes of this provision:
 - “Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.
 - “Prostitution” means procuring or providing any commercial sex act and the “practice of prostitution” has the same meaning.
 - “Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. 22 U.S.C. 7102(9).
- d. The recipient shall insert this provision, which is a standard provision, in all subawards, procurement contracts or subcontracts.
- e. This provision includes express terms and conditions of the award and any violation of it shall be grounds for unilateral termination of the award by USAID prior to the end of its term.

[END OF PROVISION]

RAA 19. METRIC SYSTEM OF MEASUREMENT (AUGUST 1992)

APPLICABILITY: *This provision is only applicable when awarding a FOG to a U.S. NGO and when measurements are specified as or in a milestone.*

Wherever measurements are required or authorized, they must be made, computed, and recorded in metric system units of measurement, unless otherwise authorized by the Agreement Officer in writing when it has found that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets. Where the metric system is not the predominant standard for a particular application, measurements may be expressed in both the metric and the traditional equivalent units, provided the metric units are listed first.

[END OF PROVISION]

[END OF THE STANDARD PROVISIONS]

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